

MEMORANDUM

MAY 23, 1984

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: GOVERNMENT CENTER PROJECT, MASS. R-35, EXECUTION
OF AGREEMENT CONCERNING DISPOSITION PARCEL 7

In accordance with the Authority's tentative designation of Congress 7 Associates as redeveloper of Parcel 7 in the Government Center Project, the developer has been involved in an extensive design review process with the Authority, which has significantly improved the development.

In accordance with said designation, the developer is obligated to execute an agreement with the Authority requiring, among other things, that they make payment-in-lieu-of-taxes; that they make off-site public improvements in the general vicinity of the project; and that they incorporate the design features approved by the Authority, including the requirement that the building be done with a first-class granite exterior.

It is recommended that the Director be authorized to execute the Parcel 7 Agreement substantially in accordance with the attached.

VOTED: That the Director be, and hereby is, authorized to execute an Agreement, substantially the same as that attached, with Congress 7 Associates concerning Disposition Parcel 7 in the Government Center Project.

AGREEMENT

AGREEMENT made this ____ day of May, 1984, between CONGRESS 7 LIMITED PARTNERSHIP (formerly known as Congress 7 Associates), a Massachusetts limited partnership ("Developer") with its principal place of business c/o David E. Nassif, 167 Worcester Street, Wellesley Hills, Massachusetts 02181, of which David E. Nassif is the sole general partner, and the BOSTON REDEVELOPMENT AUTHORITY ("BRA"), a public body corporate and politic.

Reference is made to the following facts:

A. By resolution ("Resolution") of the BRA adopted August 31, 1983, the Developer was tentatively designed as redeveloper of Disposition Parcel 7, Government Center Project, Mass. R-35 (the "Parcel").

B. Said designation was made subject to several conditions, one of which was that the Developer and the BRA enter into a letter of intent pursuant to which the Developer would agree to comply with the terms of the Resolution and of a memorandum (the "Memorandum") from the Director of the BRA to Developer dated August 31, 1983. This agreement shall serve as such letter of intent.

NOW, THEREFORE, for good and valuable consideration, including the making by the BRA of said designation and the payment by Developer of the \$50,000 described in paragraph 6(j) hereof, the parties hereto do hereby agree as follows:

1. We hereby agree to comply with the provisions of the Memorandum and Resolution, as modified and supplemented by this agreement. Where specific conflict exists between this agreement and the Memorandum or the Resolution, the provisions of this agreement shall prevail.

2. For purposes of the tentative designation, the designated party shall be Developer or a joint venture in which Developer shall hold at least a fifty percent (50%) joint venture interest. In any event, until a certificate of completion has been issued by the BRA, David E. Nassif shall remain the sole general partner of Developer, or the managing general partner if there shall be more than one general partner of Developer, unless prior approval for his withdrawal as a general partner is given by the BRA Director.

3. The architects for the Parcel 7 redevelopment project (the "Project") are Cambridge 7 Associates, of Cambridge, Massachusetts. Cambridge 7 Associates shall remain the Project architects unless prior approval for a change of architects is given by the BRA Director.

4. The operator of the hotel portion of the Project (which may also be a lessee of such portion) shall be Holiday Inns, Inc. or another recognized hotel operator (including but not limited to Hyatt, Sheraton, Hilton and Ramada) which shall commit to operating the hotel at an average undiscounted room rate at least ten percent (10%) below the average undiscounted room rate of the Bostonian Hotel, the Marriott Long Wharf Hotel and the Meridien Hotel.

5. Developer shall submit, on or before December 1, 1984, evidence satisfactory to the BRA as to the availability of necessary financing for the Project.

6. The general objectives of the Project shall be as set forth in the developer's kit and second stage development guidelines, which shall be implemented in scope and substance as reflected in Developer's development proposal previously submitted to the BRA, the Memorandum and Resolution and this agreement. The location of the tower element of the Project will be set back from the corner of Hanover and Congress Streets by at least the distance reflected in Developer's design submission at the time of tentative designation. Without limitation:

a) The Developer will comply with the design review procedures of the BRA, as set forth in Exhibit A attached hereto and made a part hereof, unless such procedures are modified by the BRA.

b) In proceeding with such design review, the Developer shall submit materials consistent with the development program, which is attached to the Resolution and labeled "PROJECT COMPONENTS AND FACILITIES."

c) The hotel element shall not exceed 484 rooms, and the building's height shall not exceed that of the JFK building as measured from the Boston Harbor datum base.

d) The office building element shall not exceed the height of the easterly portion of the Government Center garage as measured from the Boston Harbor datum base.

e) The height of the garage element shall preserve the vista easement from Government Center Plaza to Old North Church and provide a minimum of 228 parking spaces for hotel guests and users.

f) Special design emphasis will be provided to insure the quality of external materials for all project elements, the same to be consistent with the historic character of this area of Boston, as reflected in the nearby Blackstone Block, and be approved by the BRA. Without limitation, the facades of all buildings shall be only of granite comparable to or better than

the quality of the granite being used for construction of the building at 265 Franklin Street. Maximum effort shall be made to obtain an appearance of the tower element which is non-intrusive and not out of character with the area. All signage shall conform to the Boston sign code and such additional reasonable requirements as the BRA shall impose. No signs shall be placed more than two stories above ground level.

g) The Developer agrees to be bound by and follow all of the so-called linkage provisions which appear as Article 26 of the Boston Zoning Code. This agreement shall be enforceable as a separate contract between the Developer and the BRA (said Article 26 and other relevant portions of said Code being hereby incorporated herein by reference) in the event any question is raised as to the applicability of said Article 26 to the development.

h) In addition to making payment pursuant to the standards of said Article 26, the Developer shall make further payments to the BRA (in the nature of said linkage payments) on an "as earned" basis, with the maximum amount of such payments not to exceed, in the aggregate, the amount by which \$2,200,000 exceeds payments required and made under said Article 26. The obligation to make such further payments will accrue during the period ending on the 12th anniversary of the first to occur of x) issuance of a certificate of occupancy for all or part of the project, y) occupancy of all or part of the project or z) substantial completion of the project. "As earned" will mean 5% of net cash flow from the Project, with a yearly maximum of \$200,000. Net cash flow is to be actual gross income minus operation expenses, real estate taxes, and an amount equal to 13% of certified total Project development costs, all as approved by the BRA. Such further payments shall be made to the entity designated to receive payments under said Article 26 or, should no such entity exist, to such other entity as the BRA may designate whose purposes are to assist in the production of low and moderate income housing in Boston.

There shall be a separate agreement between Developer and the BRA with regard to the matters set forth above in paragraph 5(g) and this paragraph 5(h). In no event shall occupancy of any portion of the Project be allowed if on the date set therefor there is a delinquency in making any of the payments specified above in paragraph 5(g) and this paragraph 5(h).

i) As stated in the Resolution, concurrence in the disposal transaction must be obtained from the Department of Housing and Urban Development. Such disposal transaction so to be approved must be evidenced by, among other things, a land disposition agreement acceptable to the Developer, the BRA and said Department.

j) Except as provided below, beginning October 1, 1984, and thereafter on the first day of each succeeding month, the Developer unconditionally agrees to pay to the BRA the sum of \$40,000. Such sum is to be a payment in lieu of taxes and shall continue to be made until the first day on which the Parcel shall be fully subject to real estate taxation by the City of Boston. Developer understands that the starting date for this payment shall not be extended for any reason. If Developer fails to make any of such payments when due, the BRA shall have the option, upon at least thirty (30) days notice to Developer by registered or certified mail, to proceed to revoke Developer's designation if Developer fails to make such delinquent payment by the end of such 30-day period, together with interest at 18% per annum from the due date of such delinquent payment. If the BRA does not exercise such option, in addition to the purchase price to be paid by Developer for the Parcel, Developer shall pay separately to the BRA the amount of any delinquent payments plus interest thereon at 18% per annum from the due date of each delinquent payment.

Concurrently with the execution of this agreement, Developer has delivered to the BRA \$50,000 to evidence Developer's intent to proceed. Said \$50,000 is non-refundable to Developer and may be utilized by the BRA for such purposes as it in its sole discretion may determine, but \$40,000 thereof shall be treated as the payment of \$40,000 in lieu of taxes due on October 1, 1984 and \$10,000 thereof shall be credited towards the \$40,000 in lieu of taxes due on November 1, 1984 (the balance of which, \$30,000, shall be paid to the BRA on November 1, 1984).

k) The purchase price of the Parcel, \$2,431,800 (\$42/psf), shall be divided by Developer into the sums of \$1,772,400 and \$659,400, respectively. The first such sum shall be treated as payment for the 42,200 square foot portion of the Parcel originally acquired with federal assistance and the second such sum shall be treated as payment for the 15,700 square foot portion of the Parcel originally acquired by the City of Boston.

l) Developer shall undertake and pay all costs for the improvements located outside the Parcel, such improvements being listed on Exhibit B annexed hereto, entitled "Off-site Improvements." Developer agrees that it will, on or before the date of its acquisition of the Parcel, possess all rights needed so to undertake such improvements, and the BRA agrees to cooperate with Developer in obtaining such rights as are subject to the control of the BRA or the City of Boston.

m) Developer consents to revocation of its tentative designation if it has not purchased the Parcel and begun full construction by December 31, 1985 unless the BRA has extended

such date for performance. Should such revocation occur, Developer shall turn over all data, plans and other materials to the BRA, and the BRA or its assigns shall be free to make such use of the same, without payment or liability to anyone, as the BRA or its assigns may desire.

Executed under seal.

Congress 7 Limited Partnership,
a Massachusetts limited
partnership

By _____
David E. Nassif
General Partner

Accepted and agreed to this
_____ day of May, 1984

BOSTON REDEVELOPMENT AUTHORITY

By _____
Director

/805J

DESIGN REVIEW PROCEDURES

EXHIBIT A

DEVELOPMENT APPROVAL PROCESS

BOSTON REDEVELOPMENT AUTHORITY

1984

THE DESIGN REVIEW PROCEDURE FOR
DEVELOPER'S ARCHITECTURAL SUBMISSION IS
TO THE
BOSTON REDEVELOPMENT AUTHORITY

CITY OF BOSTON

Raymond L. Scott, Mayor

BOSTON REDEVELOPMENT AUTHORITY

Robert L. Farnham, Chairman

James J. Nease, Vice Chairman

James A. Conway, Treasurer

Charles J. Jones, Vice Treasurer

William A. McDermott, Jr., Member

John G. Smith, Secretary

Robert J. Ryan, Clerk

All development proposals submitted to the Design Review Authority will be subject to design review and approval. Approval must be obtained for all stages of project design and construction. Approval must be obtained for preliminary design, preliminary construction documents, and construction documents. Subsequent to approval, the Authority may require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design.

In addition to the foregoing design review procedures, the Authority may require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design.

DESIGN REVIEW PROCEDURES

Review of Stage 1, 2 and 3 will be subject to a review by the Authority. The Authority may require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design. The Authority may also require the applicant to submit additional information or to revise the design.

CITY OF BOSTON

Raymond L. Flynn, Mayor

BOSTON REDEVELOPMENT AUTHORITY

Robert L. Farrell, Chairman

Joseph J. Walsh, Vice-Chairman

James K. Flaherty, Treasurer

Clarence J. Jones, Vice-Treasurer

William A. McDermott, Jr., Member

Kane Simonian, Secretary

Robert J. Ryan, Director

BOSTON REDEVELOPMENT AUTHORITY DESIGN REVIEW PROCEDURE

All development proposals submitted to the Boston Redevelopment Authority will be subject to design review and approval. Required submissions shall be made at four stages of project design and construction: Schematic Design, Design Development, Contract Documents, and Construction Inspection. Submissions shall include the materials described herein, except that for projects of limited size, scope and impact on their surroundings, certain of the required materials may be waived by the Authority. This determination will be made at the start of each stage of the Design Review Procedure.

In addition to the four-stage Design Review Procedure, other reviews at the request of either the developer or the Authority are encouraged. It is also expected that reasonable requests for progress prints and other materials in addition to those required herein will be met at any time.

Review of Stages 2, 3 and 4 will be limited to consideration of design refinements, new elements not present in previous submissions, and conformity with previously approved submissions.

NOTE: In addition to design review and approval, projects under consideration by the Boston Redevelopment Authority are usually required to submit documentation of developer experience, financial information including pro-formas and any other information deemed appropriate by the Authority.

DESCRIPTION OF SUBMISSION REQUIREMENTS

All drawings shall be clearly identified and shall include north arrow and graphic scale.

For each submission stage, in addition to full-size scale drawings, please provide three copies of a bound booklet containing all submission materials at a reduced size.

I. SCHEMATIC DESIGN

The intent of this review is to secure agreement on the basic design concept. The following materials are required:

- A. Written description of the project including all program elements and space allocation for each element; zoning requirements and preliminary zoning calculations.
- B. Neighborhood plan and sections at an appropriate scale (1" = 50' or larger) showing relationships of the proposal to the neighborhood's massing, building height, scaling elements, open space, major topographic features, pedestrian and vehicular circulation, and land use; black and white 8" x 10" photographs of the site and neighborhood.
- C. Site plan at an appropriate scale (1" = 20' or larger) showing:
 - 1. General relationships of proposed and existing adjacent buildings and open space. Open spaces defined by buildings on adjacent parcels and across streets shall be included.
 - 2. General location of pedestrian ways, driveways, parking, service areas, streets, and major landscape features.
 - 3. Pedestrian and vehicular (including service) access and flow through the parcel and to adjacent areas.
 - 4. Survey information, such as existing elevations, benchmarks, utilities, etc.
 - 5. Current ownership (including purchase options) of all portions of the development site.
 - 6. Phasing possibilities, if any.
 - 7. Construction limits, if applicable.
- D. Site sections (1" = 20' or larger) showing relationships to adjacent buildings and spaces.
- E. Schematic building plans showing ground floor and typical upper floor(s).

- F. Massing model at 1" = 100' for use in the Authority's downtown cityscape model.
- G. Shadow studies showing the effects of the proposed massing on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

Submission of site plan and massing options, as well as other sketches and diagrams which will help clarify design issues and the proposed solution is encouraged. After review and agreement on the program, site plan and massing, the following materials are required:

- H. Building and site improvement plans, elevations in the context of the surrounding area, and sections showing organization of functions and spaces, all at an appropriate scale (e.g., 1" = 8'). These drawings shall describe architectural massing, facade design, and proposed materials.
- I. Site model at an appropriate scale (1" = 20' or larger). All nearby buildings and streets should be included to illustrate the relationship of proportions, materials and facade treatment to the surrounding buildings.
- J. Wind impact studies at pedestrian levels describing the effect of the project on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.
- K. Estimated construction schedule for the project.
- L. Eye-level perspective showing the proposal in context of the surrounding area.
- M. Proposed schedule for submission of Design Development materials.

Upon approval by the Authority of the SCHEMATIC DESIGN, the following submission is required:

II. DESIGN DEVELOPMENT

The intent of this review is to secure agreement on the final design prior to detailed work on Contract Documents. The following materials are required:

- A. Written description of the project (including all program elements and space allocation for each element) and zoning calculations.
- B. Site plan at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN) showing:
 - 1. Relationship of proposed building and open space to existing adjacent buildings, open spaces, streets, and buildings and open spaces across streets.

2. Proposed site improvements and amenities including paving, landscaping, lighting and street furniture.
 3. Building and site dimensions, including setbacks and other dimensions subject to zoning requirements.
 4. Any site improvements or areas proposed to be developed by some other party (including identification of responsible party).
 5. Proposed site grading, including typical existing and proposed grades at parcel lines.
- C. Site sections at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN).
- D. Building plans (including preliminary structural and mechanical drawings), sections and elevations at an appropriate scale (e.g., 1" = 8') developed from approved schematic design drawings. Elevations shall show the project in the context of the surrounding area as required by the Authority to illustrate relationships of character, scale and materials. All plans, sections and elevations shall reflect the impact of proposed structural and mechanical systems on the appearance of exterior facades, interior public spaces, and roofscape.
- E. Large-scale (e.g., 3/4" = 1'-0") typical exterior wall sections, elevations and details sufficient to describe specific architectural components and methods of their assembly.
- F. Outline Specifications of all materials for site improvements, exterior facades, roofscape, and interior public spaces.
- G. Study model at an appropriate scale (e.g., 1" = 16', or as determined after approval of SCHEMATIC DESIGN) showing refinements of facade design.
- H. Eye-level perspective drawings showing the project in the context of the surrounding area.
- I. Proposed schedule for submission of Contract Documents.

Upon approval by the Authority of the DESIGN DEVELOPMENT, the following submission is required:

III. CONTRACT DOCUMENTS

The intent of this review is to secure agreement on the detailed design of the proposal. The following materials are required:

- A. Written description of the project, (including all program elements and space allocation for each element) and zoning calculations.
- B. Site plan showing all site development and landscape details for lighting, paving, planting, street furniture, utilities, grading, drainage, access, service, and parking.
- C. Complete architectural and engineering Drawings and Specifications.
- D. Full-size assemblies (at the project site) of exterior materials and details of construction.
- E. Eye-level perspective drawings or presentation model that accurately represents the project, and a rendered site plan showing all adjacent existing and proposed structures, streets and site improvements.
- F. Site and building plan at 1" = 100' for Authority use in updating its 1" = 100' Photogrammetric Map Sheets.
- G. Construction schedule for the project.

During preparation of the Contract Documents, it is the developer's responsibility to notify the Authority, promptly and secure its approval of all changes from the approved Design Development Drawings that are contemplated for site improvements, exterior facades, roofscape and interior public spaces. Progress Drawings representing 50% completion of the Contract Documents may be required for review by the Authority.

Upon approval by the Authority of the CONTRACT DOCUMENTS, the following submissions are required:

IV. CONSTRUCTION INSPECTION

- A. All Contract Addenda, Change Orders, and other modifications and revisions of approved Contract Documents which affect site improvements, exterior facades, roofscape, and interior public spaces.
- B. Shop drawings of architectural components which differ from, or were not fully described in Contract Documents.

Site visits will be conducted to insure construction of the project in accordance the approved Contract Documents.

EXHIBIT B

PARCEL 7 OFF-SITE IMPROVEMENTS

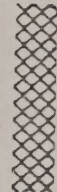
Four major off-site improvements are to be completed prior to occupancy of the development proposed for Parcel 7. The details and materials for these improvements shall be compatible with Dock Square and the proposed improvements for Government Center Garage.

Where brick pavers are used they shall be "City Hall" brick pavers. Thermal finish or split-face granite pavers are to be used for all pedestrian walking surfaces, while cobbled pavers are to be used in streets to discourage vehicular traffic. Street lamps, trees, landscaping, and other pedestrian amenities added off-site are to equal or exceed the quality of the improvements completed for Curley Park.

1. Rebuild Hanover Street as a granite paved pedestrian walk. The walk is to extend from Government Center Plaza, across New Congress Street, down existing Hanover Street, across Blackstone Street and connect with the present North End walk under the Expressway. The walk is to be as wide as the current Hanover Street right-of-way.
2. Construct a twenty-four foot (24') wide granite paved pedestrian walk across New Congress Street at New Sudbury Street. Reset the existing granite curb as required.
3. Reconstruct the existing New Congress street traffic median. Brick pave the entire island from New Sudbury Street to North Street. Add ten (10) double acorn globe fixtures on Spring City Electric post and install four (4) granite rimmed flower planters. See Curley Park for appropriate details.
4. Pedestrian crosswalks and traffic island at the intersection of New Sudbury and Blackstone Streets are to be twenty-four feet (24') wide granite paved walks with the island brick paved using City Hall pavers.

Parcel 7: Off-site Improvements

Legend:



granite paved area



brick paved area

